



Board of Certified Reporters

Arizona State Courts Building
1501 West Washington Street, Phoenix, Arizona 85007
Hearing Room 109

**October 13, 2015
1:00 P.M.**

Approved Regular Meeting Minutes

MEMBER ATTENDANCE:

Present:

Honorable Peter Swann

Telephonically Present:

G. Allen Sonntag, Chair
Terri Faust
Honorable Douglas Gerlach
Patricia Seguin
Melissa Gonsalves

Absent:

Michael Parrish

OTHER ATTENDEES:

AOC Staff:

Mark Wilson
Michelle Martinez
Hal White
Debbie MacDougall
Wendy Reiter
Pasquale Fontana
Sheryll Prokop
Wil Castro
Arnita Oliver

Guests:

Joe Manning
Mary Manning
Bridgid Donovan
Scott Coniam
Terese Heisig
Barry Borex

CALL TO ORDER

Called to Order By:

G. Allen Sonntag, Chair

Time:

1:03 P.M.

1) REVIEW AND APPROVAL OF MINUTES:

1-A: Review and approval of the regular session minutes for the meeting of August 11, 2015.

Individual Addressing the Board: G. Allen Sonntag, Chair

Discussion: None

Motion: Move to approve the regular session minutes for the meeting of August 11, 2015.

Motion Proposals: First Melissa Gonsalves
Second Terri Faust

Motion Results: Pass

2) PENDING COMPLAINTS/RENEWAL OF CERTIFICATION

2-A: Review, discussion and possible action regarding complaint number 14-C001 involving Mary Manning; and review, discussion and possible action regarding renewal of individual certification for Mary Manning.

Individual Addressing the Board: Pasquale Fontana

Discussion: This complaint was brought before the Board on August 11, 2015, at which time the Board deferred the matter to the next meeting and requested that Mary Manning be present.

Mary Manning is present. Investigator Fontana addresses the Board regarding complaint 14-C001.

On March 12, 2014, the Division received a written complaint against Mary Manning containing the following allegations:

1. Complainant alleges Manning relinquished control of the deposition transcripts of Major Ellis and Lois Flynn to Terese

Heisig, a certified court reporter and co-litigant, allowing her to create her own version of the transcripts.

2. Complainant alleges Manning did not charge Heisig and co-plaintiff Rodrick or their attorney, Warner, for certified copies of the transcripts.
3. Complainant alleges Manning was in a conflict of interest because she worked for Heisig prior to and during the litigation of the civil case involving Heisig.

Upon completion of the investigation, the Investigation Summary was forwarded to Probable Cause Evaluator, Mike Baumstark. On June 8, 2015, Probable Cause Evaluator Baumstark entered a finding probable cause exists as to Allegations 1 and 3; and probable cause does not exist as to Allegation 2.

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Mary Manning has committed the alleged act(s) of misconduct as detailed in Allegations 1 and 3 of the Investigation Summary and Allegation Analysis Report in complaint number 14-C001.

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Mary Manning has not committed the alleged act(s) of misconduct as detailed in Allegation 2 of the Investigation Summary and Allegation Analysis Report in complaint number 14-C001 and dismiss Allegation 2.

It is recommended that, as to Allegations 1 and 3, the Board enter a finding grounds for formal disciplinary action exists pursuant to Arizona Code of Judicial Administration (“ACJA”) § 7-201(H)(6)(a) for act(s) of misconduct involving: (i) ACJA § 7-206(J)(1)(a) and 7-206(J)(1)(g)(a) by providing a draft of the transcript to a party in a manner that could be modified, being alerted to the fact that her client (a party in the litigation) had modified the draft with the intent to file the modified draft and taking no action to stop her client or maintain or regain control of the transcript, and (ii) ACJA § 7-206(J)(1)(a), (d) and (e) by having an ongoing business relationship with a party to the litigation whereby that party provided other reporting work to Manning and further allowing that business relationship to affect or appear to affect Manning’s professional performance while providing reporting services.

It is further recommended the Board suspend Mary Manning’s certification for thirty days and that said suspension prohibit Mary

Manning from attending any deposition, hearing or other matter that would require certification, but not prohibit Mary Manning from preparing and providing transcripts for depositions or hearings that occurred prior to the date of suspension.

The Board interviews Ms. Manning and discussion is held.

Motion: The Board found the allegations to be unsubstantiated and moved to dismiss complaint number 14-C001.

Motion Proposals: First Judge Peter Swann
Second Patricia Seguin
Recused Judge Douglas Gerlach

Motion Results: Pass

Discussion: Staff recommends that the Board grant renewal of certification to Ms. Manning.

Motion: Move to accept staff's recommendation.

Motion Proposals: First Judge Peter Swann
Second Melissa Gonsalves
Recused Judge Douglas Gerlach

Motion Results: Pass

2-B: *Review, discussion and possible action regarding complaint number 14-C002 involving Terese Heisig; and review, discussion and possible action regarding renewal of individual certification for Terese Heisig.*

Individual Addressing the Board: Pasquale Fontana

Discussion: This complaint was brought before the Board on August 11, 2015, at which time the Board deferred the matter to the next meeting and requested that Terese Heisig be present.

Terese Heisig and her attorney, Barry Borex are present. Investigator Fontana addresses the Board regarding complaint 14-C002.

On March 12, 2014, the Division received a written complaint against Terese Heisig containing the following allegations:

1. Complainant alleges Heisig, co-plaintiff in CV2013-003800, produced her own version of a deposition transcript and allowed a co-plaintiff to use extracts of that deposition transcript for use in other civil cases.

2. Complainant alleges Heisig violated the terms of a court order by distributing a deposition transcript.
3. Complaint alleges Heisig was in a conflict of interest by hiring court reporter, Mary Manning, to take the depositions because Manning worked for Heisig.

The matter was investigated and yielded an additional allegation:

4. Heisig was sanctioned by the Superior Court for failing to comply with an order to attend her deposition, in CV2013-003800.

Upon completion of the investigation, the Investigation Summary was forwarded to Probable Cause Evaluator, Mike Baumstark. On June 8, 2015, Probable Cause Evaluator Baumstark entered a finding probable cause exists as to Allegations 1, 3 and 4; and probable cause does not exist as to Allegation 2.

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Terese Heisig has committed the alleged act(s) of misconduct as detailed in Allegations 1, 3 and 4 of the Investigation Summary and Allegation Analysis Report in complaint number 14-C002.

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Terese Heisig has not committed the alleged act(s) of misconduct as detailed in Allegation 2 of the Investigation Summary and Allegation Analysis Report in complaint number 14-C002 and dismiss Allegation 2.

It is recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a) for act(s) of misconduct involving: ACJA §§ 7-201(F)(1); 7-206(J)(1)(a) and 7-206(J)(2)(c) for, on a transcript prepared by a certified reporter, making changes to that transcript and using the modified transcript in proceedings; ACJA § 7-206(J)(1)(a), (d) and (e) by having an ongoing business relationship with the certified reporter providing reporting services in a matter in which Terese Heisig was a party and allowing that ongoing business relationship to affect or appear to affect the appropriate performance of reporting services; and ACJA §§ 7-201(H)(6)(k)(2); and 7-206(J)(1)(a) by failing to appear for a deposition for which she had been subpoenaed.

It is further recommended the Board suspend Terese Heisig's certification for thirty days and that said suspension prohibit Terese Heisig from attending any deposition, hearing or other matter that would require certification, but not prohibit Terese Heisig from preparing and providing transcripts for depositions or hearings that occurred prior to the date of suspension.

The Board interviews Ms. Heisig and discussion is held.

Motion: The Board found the allegations to be unsubstantiated and moved to dismiss complaint number 14-C002.

Motion Proposals: First Judge Peter Swann
Second Melissa Gonsalves
Recused Judge Douglas Gerlach

Motion Results: Pass

Discussion: Staff recommends that the Board grant renewal of certification to Ms. Heisig.

Motion: Move to accept staff's recommendation.

Motion Proposals: First Judge Peter Swann
Second Melissa Gonsalves
Recused Judge Douglas Gerlach

Motion Results: Pass

2-C: *Review, discussion and possible action regarding the Division Director dismissal of complaint number 15-C004.*

Individual Addressing the Board: Debbie MacDougall

Discussion: Pursuant to ACJA § 7-201(H)(1)(g)(3), complaints dismissed by the Division Director are CONFIDENTIAL and not a matter of public record. If the Board wishes to address specific details regarding this matter, it is recommended the Board enter Executive Session to discuss matters confidential.

Complaint Number 15-C004: On August 14, 2015, Division Director Wilson dismissed complaint number 15-C004 without prejudice upon determining the complaint falls outside the jurisdiction of the Board. Notice of the dismissal was forwarded to the complainant. The complainant requested Board review of the dismissal. The information presented in the request does not change the recommendation.

It is recommended the Board affirm the dismissal.

Motion: Move to accept staff's recommendation.

Motion Proposals: First Judge Peter Swann
Second Melissa Gonsalves

Motion Results: Pass

2-D: Update regarding the status of pending complaints.

Individual Addressing the Board: Debbie MacDougall

Discussion: As of October 8, 2015, there are seven open complaints, three of which have been presented on this agenda with dispositive recommendations under agenda items 2-A, 2-B and 2-C.

3) INITIAL CERTIFICATION AND ELIGIBILITY:

3-A: Review, discussion and possible action regarding pending initial certification applications for the following applicants:

- 1. Debra Carney**
- 2. Katherine Stride**
- 3. Helen Soliz**
- 4. Brigid Donovan**

Individual Addressing the Board: Wil Castro

Discussion: It is recommended that Board approve the application for the following applicants:

- 1. Debra Carney**
- 2. Katherine Stride**

Motion: Move to accept staff's recommendation.

Motion Proposals: First Judge Peter Swann
Second Melissa Gonsalves

Motion Results: Pass

Individual Addressing the Board: Wil Castro

Discussion: It is recommended the Board approve the application to the following applicant:

3. Helen Soliz

Motion: Move to accept staff's recommendation.

Motion Proposals: First Patricia Seguin
Second Judge Peter Swann

Motion Results: Pass

Individual Addressing the Board: Sheryll Prokop

Discussion: It recommended the Board grant initial certification to the following applicant:

4. Brigid Donovan

Motion: Move to accept staff's recommendation.

Motion Proposals: First Judge Peter Swann
Second Patricia Seguin

Motion Results: Pass

3-B: *Review, discussion and possible action regarding the request of applicant, Shayna Montgomery, to withdraw her application for initial certified reporter certification.*

Individual Addressing the Board: Wendy Reiter

Discussion: It is recommended the Board grant Ms. Montgomery's request to withdraw her application for initial certification.

Motion: Move to accept staff's recommendation.

Motion Proposals: First Judge Peter Swann
Second Patricia Seguin

Motion Results: Pass

4) CERTIFICATION AND ELIGIBILITY:

4-A: *Review, discussion and possible action regarding request of certificate holder, Helene Diehl, to voluntarily surrender her certified reporter certificate numbered 50272.*

Individual Addressing the Board: Wendy Reiter

Discussion: Division records indicate that there are no pending complaints against Ms. Diehl.

It is recommended the Board accept the request of Ms. Diehl to voluntarily surrender her certificate.

Motion: Move to accept staff's recommendation.

Motion Proposals: First Judge Peter Swann
Second Patricia Seguin

Motion Results: Pass

4-B: *Review, discussion, and possible action regarding request for placement on inactive status received from certificate holder, Lorraine Chalkey.*

Individual Addressing the Board: Wendy Reiter

Discussion: Staff has confirmed there are no pending complaints, therefore it is recommended the Board accept Ms. Chalkey's request to be placed on inactive status.

Motion: Move to accept staff's recommendation.

Motion Proposals: First Judge Peter Swann
Second Patricia Seguin

Motion Results: Pass

5) ADMINISTRATIVE ISSUES:

5-A: *Review, discussion, and possible action regarding the establishment of the 2016 Board meeting schedule*

Individual Addressing the Board: Debbie MacDougall

Discussion: The Board of Certified Reporters was asked to consider and approve the 2016 meeting calendar as follows:

Therefore, it is recommended the 2016 meeting calendar be set as follows:

- February 9, 2016
- April 12, 2016
- June 14, 2016
- August 9, 2016
- October 11, 2016
- December 13, 2016

Motion: Move to accept staff's recommendation.

Motion Proposals: First Judge Peter Swann
Second Patricia Seguin

Motion Results: Pass

CALL TO THE PUBLIC

Individuals Addressing the Board: None.

ADJOURNMENT

Motion: Move to adjourn.

Motion Proposals: First G. Allen Sonntag
Second

Motion Results: Pass

Time: 2:36 P.M.

Initials: AO